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c 46 Income Tax Amendment Act, 1981 (No. 2)

Ontario

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CHAPTER 46

An Act to amend the Income Tax Act

Assented to November 19th, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 21 of subsection 1 (1) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (1), par. 21, re-enacted

21. "province" means a province of Canada and includes the Yukon Territory and the Northwest Territories.

2. Subsection 3 (7) of the said Act is repealed and the following substituted therefor: s. 3 (7), re-enacted

(7) An individual who, under the Federal Act, pays tax computed in accordance with subsection 117 (6) thereof, may, in lieu of the tax under subsection (1) of this section, pay a tax determined by reference to a table prepared in accordance with prescribed rules. Special table

3. Section 7 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 3, is further amended by adding thereto the following subsection: s. 7, amended

(5) Every individual who is, in respect of a taxation year for which a deduction under this subsection is claimed, a principal taxpayer within the meaning of this section, and who, during that taxation year, has incurred any occupancy cost other than the amount deemed to be his occupancy cost under subsection (4) may, in addition to any deduction permitted under subsection (2) or (6), deduct from the tax otherwise payable by him under this Act, a home heating tax credit equal to the amount by which, Home heating tax credit

(a) \$60 for the 1981 taxation year;

(b) \$40 for the 1982 taxation year; or

(c) \$20 for the 1983 taxation year,

exceeds 1 per cent of such individual's taxable income for that taxation year for which a deduction is authorized under this subsection, and for the purpose of subsection (7), the deduction permitted by this subsection shall be considered to be a deduction to which the individual is entitled under subsection (2).

s. 10 (7),
re-enacted

4. Subsection 10 (7) of the said Act is repealed and the following substituted therefor:

Idem

(7) Where a taxpayer has filed the return required by section 8 for a taxation year and, within one year from the day on or before which he was required by section 8 to file the return for that year, has amended the return by filing with the Provincial Minister a prescribed form claiming a deduction from income under section 111 of the Federal Act in respect of non-capital losses, net capital losses or restricted farm losses sustained in the taxation year immediately following that year, the Provincial Minister shall reassess the taxpayer's tax for the year.

s. 11 (1),
amended

- 5.—(1) Subsection 11 (1) of the said Act is amended,

(a) by striking out “or” at the end of clause (l);

(b) by adding “or” at the end of clause (m); and

(c) by striking out all that part of the subsection immediately following clause (m) and inserting in lieu thereof,

(n) a termination payment,

at any time in a taxation year shall deduct or withhold therefrom such amount as may be determined in accordance with prescribed rules and shall, at such time as may be prescribed, remit that amount to the Treasurer on account of the payee's tax for the year under this Act.

s. 11,
amended

- (2) Section 11 of the said Act is amended by adding thereto the following subsections:

Undue
hardship

(1a) Where the Provincial Minister is satisfied that the deducting or withholding of the amount otherwise required to be deducted or withheld under subsection (1) from a payment would cause undue hardship, he may determine a lesser amount and that amount shall be deemed to be the amount determined under that subsection as the amount to be deducted or withheld from that payment.

Election to
increase
withholding

(1b) Where a taxpayer so elects in prescribed manner and prescribed form, the amount required to be deducted or withheld

under subsection (1) from any payment to him shall be deemed to be the aggregate of,

- (a) the amount, if any, otherwise required to be deducted or withheld under that subsection from that payment; and
- (b) the amount specified by the taxpayer in that election with respect to that payment or with respect to a class of payments that includes that payment.

(1c) For the purposes of subsection (1), where a trustee who is administering, managing, distributing, winding up, controlling or otherwise dealing with the property, business, estate or income of another person authorizes or otherwise causes a payment referred to in subsection (1) to be made on behalf of that other person, the trustee shall be deemed to be a person making the payment and the trustee and that other person shall be jointly and severally liable in respect of the amount required under subsection (1) to be deducted or withheld and to be remitted on account of the payment.

Payments by trustee, etc.

(1d) In subsection (1c), "trustee" includes a liquidator, receiver, receiver-manager, trustee in bankruptcy, assignee, executor, administrator, sequestrator or any other person performing a function similar to that performed by any such person.

Interpretation

6. Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

s. 13 (2), re-enacted

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph 156 (1) (a) of the Federal Act.

Idem, where collection agreement

7. Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

s. 17 (1), re-enacted

(1) Every person who has failed to file a return as and when required by subsection 8 (1) is liable to a penalty equal to the aggregate of,

Failure to make return

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed; and
- (b) the product obtained when 1 per cent of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twelve, in the period between the date on

which the return was required to be filed and the date on which the return was filed.

s. 33 (1),
re-enacted;
s. 33 (1a),
enacted

Requisition
of moneys
owed to
taxpayer

8.—(1) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the Provincial Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to another person who is liable to make a payment under this Act (in this section referred to as the “tax debtor”), he may, by registered letter or by a letter served personally, require that person to pay the moneys otherwise payable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor’s liability under this Act.

Idem

(1a) Without limiting the generality of subsection (1), where the Provincial Minister has knowledge or suspects that a bank, credit union, trust company or other similar person (in this section referred to as the “institution”) is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security to the institution in respect of the indebtedness, he may, by registered letter or by a letter served personally, require the institution to pay to the Treasurer on account of the tax debtor’s liability under this Act the moneys that would otherwise be so advanced or paid.

s. 33 (3, 4),
re-enacted;
s. 33 (4a),
enacted

Continuing
effect of
requisition

(2) Subsections 33 (3) and (4) of the said Act are repealed and the following substituted therefor:

(3) Where the Provincial Minister has, under this section, required a person to pay to the Treasurer on account of the liability under this Act of a tax debtor moneys otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement is applicable to all such payments to be made by the person to the tax debtor until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of such amount as may be stipulated by the Provincial Minister in the registered letter or letter served personally.

Penalty for
failure to
comply

(4) Every person who fails to comply with a requirement under subsection (1) or (3) is liable to pay to Her Majesty in right of Ontario an amount equal to the amount that he was required under subsection (1) or (3), as the case may be, to pay to the Treasurer.

Idem

(4a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

- (a) the aggregate of the moneys advanced or paid; and
- (b) the amount that it was required under subsection (1a) to pay to the Treasurer.

9. Subsections 36 (2) and (3) of the said Act are repealed and the following substituted therefor: s. 36 (2, 3),
re-enacted

(2) Where a person (in this subsection referred to as the "payor") is required by regulations made under subsection 11 (1) to deduct or withhold from a payment to another person an amount on account of that other person's tax for the year, that other person shall, from time to time as prescribed, file a return with the payor in prescribed form. Returns by
payees

(3) Every person who fails to file a return as required by subsection (2) is liable to have the deduction or withholding under section 11 on account of his tax made as though he were an unmarried person without dependants. Failure
to file
returns

10. Section 40 of the said Act is repealed and the following substituted therefor: s. 40,
re-enacted

40. Whether or not he has filed an information return as required by a regulation made under paragraph 221 (1) (d) of the Federal Act as it applies by virtue of subsection 29 (2) of this Act, every person shall, on demand from the Provincial Minister, served personally or by registered mail, file with the Provincial Minister, within such reasonable time as may be stipulated in the demand, such prescribed information return as is designated therein. Filing of
information
on demand

11.—(1) Section 1 shall be deemed to have come into force on the 1st day of January, 1980. Commence-
ment and
application

(2) Section 2, subsection 5 (1), and subsection 11 (1a) of the said Act as enacted by subsection 5 (2), shall be deemed to have come into force on the 1st day of January, 1979 and apply to the 1979 and subsequent taxation years. Idem

(3) Sections 3 and 6 come into force on the day this Act receives Royal Assent. Idem

(4) Section 4 shall be deemed to have come into force on the 12th day of December, 1979. Idem

(5) Subsection 11 (1b) of the said Act, as enacted by subsection 5 (2), and section 10 shall be deemed to have come into force on the 6th day of December, 1979. Idem

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Idem	(6)	Subsections 11 (1c) and (1d) of the said Act, as enacted by subsection 5 (2), shall be deemed to have come into force on the 26th day of February, 1981.	
Idem	(7)	Section 7 comes into force on the 1st day of January, 1982 and applies in respect of returns required to be filed, but not filed, before 1982, and in respect of returns required to be filed after 1981.	
Idem	(8)	Section 8 shall be deemed to have come into force on the 26th day of February, 1981.	
Idem	(9)	Section 9 shall be deemed to have come into force on the 1st day of January, 1980 and applies to payments made after 1979.	
Short title	12.	The short title of this Act is the <i>Income Tax Amendment Act, 1981</i> (No. 2).	